prodcuts are concerned, we are today amongst the largest exporters of marine products to those countries which were earlier creating obstacles, such as the United States. Therefore, these are being taken up. We anticipate that there are certain interests there which want to put pressures even for anti-dumping action against us. And, we have been taking it up at all levels, including the highest political levels.

SC's observations on the Representation of the People Act

202. SHRI KARNENDU BHATTACHARJEE:

SHRI N. K. PREMACHANDRAN:

Will the Minister of LAW AND JUSTICE be pleased to state:

(a) whether it is a fact that some time back the Supreme Court of India has declared Section 33-B of the Representation of the People Act as unconstitutional;

(b) if so, the details thereof;

(c) whether Government have submitted/decided to submit a review petition in the matter to the court;

(d) if so, the details thereof and if not, the reasons therefor; and

(e) the other steps being taken to hasten the process of electoral reforms?

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF COMMERCE AND INDUSTRY (SHRI ARUN JAITLEY): (a) Yes, Sir.

(b) The Supreme Court in its judgement dated 13.3.2003 in Writ Petition (Civil) No. 490 of 2002 [People's Union for Civil Liberties (PUCL) and another *Vs.* Union of India and another] has held section 33B of the Representation of the People Act, 1951, inserted by the Representation of the People (Third Amendment) Act, 2002, violative of article 19(1)(a) of the Constitution.

The question was actually asked on the floor of the House by Shri Karnendu Bhattacharjee.

(c) No, Sir. The Government has no intention of filing any review petition.

(d) The judgement pronounced by the Supreme Court of India is now the law of the land.

(e) The process of reform of electoral laws is a continuous and ongoing process. The Election and Other Related Laws (Amendment) Bill, 2003 seeking to bring transparency in the funding of political parties was passed by the Lok Sabha on 30.7.2003 and is to be considered by the Rajya Sabha shortly. Another Bill, namely the Representation of the People (Amendment), Bill, 2003 seeking to waive residential requirement of a particular State or Union territory for contesting the Rajya Sabha elections and to introduce open ballot system instead of secret ballot in elections to the Rajya Sabha, is listed for consideration and passing in the Lok Sabha. The Constitution (Ninety-seventh Amendment), Bill, 2003, which was introduced in the Lok Sabha on 5.5.2003 seeks to restrict the size of the Council of Ministers, amend Tenth Schedule (Anti-Defection Law) and prevent a defector from holding a remunerative political post. Further, the Government has circulated a paper amongst all recognized political parties inviting their comments/ views on a series of proposals on electoral reforms.

SHRI KARNENDU BHATTACHARJEE: Mr. Chairman, Sir, the Supreme Court of India has declared Section 33-B of the Representation of the People Act as unconstitutional. Though four months have passed, there is no reaction from the Government side on that aspect. It has neither given any information to the House nor accepted the verdict of the court. And, it has also not decided to present a review petition before the Supreme Court for having a second look in the matter. The Government is only sitting inactive. I would like to know the reasons for this. Unless the Government indicates its intentions in regard to this matter, how can it have the electoral reforms in the country?

SHRI ARUN JAITLEY: Sir, as far as the last suggestion is concerned, the electoral reform Bills, in almost every Session of this House, are coming up for detailed consideration, and almost with an overwhelming consensus of this House are being passed. One of these is listed even today before this hon. House As far as the judgement of the Supreme Court is concerned, the hon. Member

should remember the background in which the judgement was delivered that there was a Public Interest Litigation filed in the Delhi High Court, and the Delhi High Court directed that there are five information that every candidate to an election has to give by way of an affidavit. The Government of India has challenged that judgement in appeal. Some political parties also intervened as far as the appeal was concerned. The Supreme Court partly modified the judgment, but still required some information to be given by every candidate to the Assembly, or, to the Lok Sabha elections. The matter came up on repeated occasions, on two occasions even before all-party meetings, and, thereafter, the Act was amended to nullify the effect of the judgement, and require what this House and the Lok Sabha had decided by law are the essential requirements which should be filed along with a nomination paper. Now, that legislation which we had passed was challenged before the Supreme Court, and the Supreme Court has struck down certain provisions of this Act. The judgement of the Supreme Court is final as far as the Government is concerned, and there is nothing more than that that the Government, having once amended the Act, is required to do at this stage.

SHRI KARNENDU BHATTACHARJEE: Sir, I have no second supplementary.

SHRI N. K. PREMACHANDRAN: Sir, what the hon. Minister has said is correct because the verdict of the Supreme Court has become the law of the land. Sir, my question is this. This NDA Government has, in its manifesto itself, very specifically stated that transparency in the democratic system of governance, declaration of assets and qualifications, etc., and also the people's representatives' accountability have to be maintained. If it is so, then, why has this Government gone back from its declared manifesto by bringing in such a legislation which was declared as unconstitutional by the Supreme Court? This is part (a) of my question. Sir, part (b) of my question is this. The answer given by the hon. Minister shows that the Constitution (Ninety-seventh Amendment) Bill, 2003, which was introduced in the Lok Sabha and which is pending for consideration, seeks to prevent a defector from holding a remunerative political post. It also says that the number of the

Council of Ministers shall be one-tenth of the total number of Members in the Legislative Assembly . If that be the opinion of the Government, I would like to know the views of this Government with regard to the latest development in Arunachal Pradesh where out of 42 MLAs in the Government, 36 have been made Ministers. What are the Government's views regarding this latest development?

SHRI ARUN JAITLEY: Sir, there are two aspects of the question that the hon. Member has placed. The first is that if you are for transparency and declaration of assets, why did the Government bring before this House a legislation which was passed by a very large majority of the Members of both Houses of Parliament? I do not think, Sir, there has ever been a question which has been put to the Government as to why this House had enacted a law. Well, this House is supreme. If this House passes a law, that is supreme. But the reason why this House supported that legislation and why the Government brought it forward, was because it was the considered view of the Government. And, I must say—at least, as a Minister that it is still my considered view—that what are the conditions for a valid nomination, what should be the law in relation to eligibility to contest elections, rejection of nominations, or, acceptance of nominations are a matter for the Legislature to decide, and that matter should have been really decided by the Legislature.

And, therefore, this legislature decided to the effect that once a candidate gets elected, the elected candidate will declare his assets and liabilities to the Chairman, or to the Speaker or the Speaker of the Assembly where he is a Member. The Court thought otherwise, that every candidate to an election must file his assets and liabilities before the Returning Officer. The Government at that time had thought, and this House had also thought, that this was not necessary. This transparency was necessary for the elected member, because use or misuse of his office, an elected office, is linked to his election. Therefore, his assets post his election and five years later, could be compared, but not prior to his election when he was only a candidate to an election. But since the Court thought otherwise, and the Court has now directed that every candidate should file his returns, that apparently seems to be law of the land.

Sir, as far as the question of defections is concerned, the Government has already brought a Bill for Constitutional Amendment, to the effect that once you get elected on the symbol of a particular political party, as a member of that party, irrespective of the number of people who defect, you should be liable to be disqualified. Under the present law, there is a provision for split, which allows one-third members to split a party. And, therefore, that split itself would not incur a disqualification. The law being proposed is that irrespective of the volume of the Members who. defect, they will be liable for disqualification. That is not the position today.

SHRI HANSRAJ BHARDWAJ: Thank you, Sir, I have carefully read the answer given by the hon. Minister. Sir, I am also of the opinion that the field of legislation, particularly the laws which we make, must belong to the Legislature. Over the years, we have failed to maintain that area within our control, and the Courts have usurped those areas. There is no doubt about it and we ali share that. Time and again, I have been reminding the Government not to leave the areas to be usurped by other parts of the State. That is why these public interest litigations and other litigations are filed, and because we have courts, which are independent, they have to look into them. Even now, Sir, with all the efforts made by us, through the Sardar Manmohan Singh Committee and other committees, what have we done on the funding pattern? This is peanuts, which we have done, and the malady of funds and use of funds by the corporate world will again be there before us. And I warn this august House that slowly and steadily politics is being grabbed by money power and we should be aware of this. Something should be done for we are now withered away to the corporate world and that law must come.

Secondly, Sir, through you—you are a symbol of secularism— I appeal to the Government that we should put a stop to the communal politics in the country; it is eating into the harmony of our nation. So we should do something immediately. I, as a Minister, introduced a Bill, which is still pending is the Government archives, for providing that we should stop use of religion and religious symbols during the election campaign. Nothing has been done. I appeal to the Government to" look into it.

SHRI ARUN JAITLEY: Sir, I am very grateful to the hon. Member for his very valuable suggestions. As far as his principal point with regard to funding is concerned, I just want to inform the hon. Member that that has been approved by the Lok Sabha and is listed as the first Bill today after the Question Hour. If the House desires, we can pass it today itself.

श्री लालू प्रसाद: सर, मैं आपके माध्यम से माननीय प्रख्यात कानून मंत्री जी से जानना चाहता हूं कि सुप्रीम कोर्ट ...(**व्यवधान**)... प्रख्यात है, मशहूर हैं ...(**व्यवधान**)...

श्री सभापति: कौन से मंत्री जी से पूछ रहे हैं?

श्री लालू प्रसाद : कानून मंत्री जी से ...(**व्यवधान**)... अंग्रेजी में फेमस होता है। ...(**व्यवधान**)... मैं आपको बताना चाहता हूं। पोलिटीकल पार्टीज़ की बैठक भी हुई थी, जिसमें विभिन्न दलों और हम लोगों ने अपनी राय दी थी कि माननीय सुप्रीम कोर्ट ने पी आई एल की सुनवाई के दौरान असंवैधानिक बात बतायी। संसद लॉ मेकिंग बॉडी है और दोनों हाउसेज कानून बनाते हैं, संविधान मे संशोधन करते हैं और उसी की व्याख्या कोर्ट करती है, चाहे वह सुप्रीम कोर्ट हो या जो भी कोर्ट हो। महोदय, सम्पत्ति के ब्यौरे में लगता है देश में राजनीतिक नेताओं के पास ही सारी सम्पत्ति है, सारा कंसेंट्रेशन पोलिटीकल लोगों के ऊपर है।

और इसी क्रम में पीआईएल हुआ। महोदय, मैं तो प्रेक्टिस नहीं करता, मैं वकील हूं, पीआईएल वही वकील करते हैं, जिनको कोई ब्रीफ नहीं मिलता और कोई सुनवाई नहीं होती, लेकिन सुप्रीम-कोर्ट ने दे दिया लोकहित याचिका का कि संविधान में व्यवस्था है।लोकहित याचिका, इस पीआईएल ने सारी राज्य सरकारों को और भारत सरकार को परेशान करके रखा हुआ है। तो इसको आप समाप्त करने के लिए क्या कर रहे हैं?

श्री सभापतिः हो गया आपका प्रश्न।

श्री लालू प्रसाद : सर, अभी मैं दूसरी बात बोल रहा हूं। मै दूसरी बात यह जानना चाहता हूं कि संपत्ति का ब्यौरा और क्रिमिनल हिस्ट्री कि क्या क्या मुकदमे हुए, वह आप दे दीजिए, फिर एजुकेशन की बात का कहा। अब वर्ष 1994 में जिनके ऊपर मुकदमे हुए होंगे, बहुत सी जेलों में उनका कोई अभिलेख ही नहीं मिलता। अब अगर हमसे यह छूट गया तब तो हमारा पर्चा ही रद्द हो गया। उसके बाद, सर, अनुभव यह बताता है कि उत्तर प्रदेश और तामिलनाडु में रोज मुकदमा होता है एक दूसरे के खिलाफ, एक दूसरे

राजनेताओं के खिलाफ। मान लिया कि चुनाव हो गया, मायावती जी ने मुलायम सिंह यादव पर कोई मुकदमा एक दिन कायम कर दिया, इनको पता नही, यादव लोगों को तो पता नहीं रहता, फिर कोई पर्चा दाखिल हुआ. किसी ने लाकर दे दिया और मुलायम सिंह जी को मालूम नहीं, तब तो गए यह। यह बड़ी खतरनाक बात है। यह सवाल किसी एक दल का नहीं है. किसी एक पार्टी का नहीं है।हम लोग माननीय मंत्री जी से जानना चाहते हैं कि आप इस पर कोई ठोस कानून बनाने के लिए सदन को आश्वास्त करना चाहते हैं या नहीं? इस तरह का दुरुपयोग न हो, इसको कैसे रोका जाए, इसके लिए आप बैठकर सब पोलिटिकल पार्टी के लोगों से बात करके इस बात को सुप्रीम कोर्ट में लगाइए,। अगर संविधान अनकंस्टीट्यूशनल है तो इसको कंस्टीट्यूशनल करने का अधिकार हमको है। इस दिशा में आप क्या करना चाहते हैं? इस पर हम आपसे आश्वासन चाहते हैं।

श्री अरुण जेटलीः सभापति जी, माननीय लालू जी ने जो प्रश्न उठाया है, मैं उसकी गंभीरता को समझता हूं। हाईकोर्ट और सुप्रीम-कोर्ट ने जब प्रथम चरण में अपना निर्णय दिया था तो उन्होंने केवल यह कहा कि सूचना का अधिकार मतदाता को है और इसलिए मतदाता को अपनी जानकारी दीजिए। चुनाव आयोग ने जब उसके बाद अपना आदेश जारी किया तो उसमें यह भी संकेत निकलता था कि अगर इसमें कोई सूचना गलत होगी तो रिटर्निंग आफीसर आपका नोमीनेशन पेपर भी रद्द कर सकते हैं। इस बात की चिंता इस सदन में आई थी और एक कानून सरकार लाई थी, जिसमें इस स्थिति को समाप्त करने का हम लोगों ने एक प्रयास किया था। उसके बाद जब मामला सुप्रीम कोर्ट में गया तो सुप्रीम-कोर्ट ने अपने दूसरे चरण में यह नहीं कहा कि सूचना ठीक है या गलत है, उसको रद्द करने का अधिकार किसी को होगा, लेकिन दूसरे चरण के बाद चुनाव आयोगे ने. मैं कहना चाहूंगा चूंकि निश्चित रुप से यह सभी राजनैतिक दलों का विषय है, उन्होंने पुराने अपने आदेश को मोडिफाई कर दिया और उस मोडिफिकेशन में यह कह दिया कि जाहां तक असेट्रस और लाइबिलिटीज है, उसकी सूची ठीक दी है या नहीं दी है, इस आधार पर नोमीनेशन पेपर रिजेक्ट नहीं हो सकता है। वह जो मोडिफिकेशन किया वह असेट्स के हिसाब से किया, लेकिन दो अन्य रिक्वालिफिकेशन क्या है, उसके संबंध में अभी पुराना आदेश चल रहा है। मैं चाहूंगा कि अगर इस पर अलग से ब्यौरा, वैसे हर राजनैतिक दल को एक पत्र के माध्यम से भी लिख दूंगा और अगर सबकी राया यह बनती है कि इसको बदलवाने की आवश्यकता है तो इसमें चुनाव आयोग के साथ बैठकर हम लोग फिर से इसे टेकअप करने को तैयार है। मैं यह भी याद दिला दूं कि जब

यह मामला दूसरे चरण में आया था तो उस वक्त मैं सरकार में नहीं था। उन दिनों मैने उदाहरण के तौर पर कहा था कि जब यह पहला आदेश जारी हो रहा था तो दो चुनाव इस देश में हुए थे। एक उप-चुनाव हुआ था, जो उत्तरांचल के मुख्यमंत्री श्री नारायण दत्त तिवारी जा का था और दूसरा अलेक्जेन्डर साहब का था। इसमें दोनों को एफेडेविट के कोई केस है जिसकी लिस्ट आपने मांगी है, वे मुझे याद नहीं है और आपने जो नोमीनेशन दिया था उसमें हायर एजुकेशन की तो डिटेल दे दी थी, मैने उस वक्त भी कहा था, लेकिन स्कूल एजुकेशन क्या है उस कॉलम को नहीं भरा था। इस आधार पर नोमीनेशन रिजेक्ट होंगे या नहीं, यह एक विषय है। मैं इस संबंध में सभी राजनैतिक दलों से बात करने का प्रयास करुंगा।

श्री सभापति : ठीक है, सभी राजनैतिक दलों से बातचीत करिए।

श्री लालू प्रसाद : बातचीत तो हो ही गई महोदय। आप इसको समाप्त करने की कार्यवाही करिए। आप इस पर बिल पास करिए।

*203. [Tfte *questioner (Shri Datta Meghe) was absent for answer vide page 37-38]*

Pilferage of medicines

†204. SHRI MOTILAL VORA: Will the Minister of HEALTH AND FAMILY WELFARE be pleased to state:

(a) whether it is a fact that medicines supplied for different hospitals were seized during a raid conducted on the 9th June, 2003 by the Drugs Control Department, Delhi and the Bureau of Economic Offences;

(b) if so, the details thereof;

(c) the details of employees of hospitals and chemists involved in this racket and the hospitals to which they belong to;

(d) the action taken by Government against the culprits; and

(e) the arrangements made by Government to check recurrence of such incidents in future?

† Original notice of the question was received in Hindi.